

## Notice of Allowability

Application No.

10/800,268

Examiner

Jared I. Rutz

Applicant(s)

BAYT, JACK M.

Art Unit

2187

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/9/2007.
2. ☒ The allowed claim(s) is/are 1-5, 9-13, 16-20, and 24-26.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-26, as amended on 2/26/2007, are pending in the instant application. Claims 6-8, 14-15, and 21-23 have been withdrawn. Applicant's arguments have been carefully and fully considered, and are persuasive. Accordingly, this application is in condition for allowance.

### ***Claim Rejections - 35 USC § 101***

2. Applicant's arguments, see page 9 paragraph 7, with respect to the rejection of claims 16-20 under 35 USC 101 are persuasive. Accordingly, the rejection of claims 16-20 is withdrawn.

### ***Examiner's Amendment***

3. This application is in condition for allowance except for the presence of claims 6-8, 14-15, and 21-23 directed to an invention non-elected without traverse. Accordingly, claims 6-8, 14-15, and 21-23 have been cancelled.

### ***Reasons for Allowance***

4. **Claims 1-5, 9-13, 16-20, and 24-26** are allowed.

5. **Claim 1** has been amended to recite the limitations "*breaking up an existing file into two or more memory blocks for use by an application*" and "*managing the two or more memory blocks as nodes in a heap tree*". These limitations are taught by the specification in paragraphs 0031 and 0032, and argued by applicant in the second

paragraph of page 11 of the arguments submitted 2/26/2007. These limitations, in combination with the other recited limitations of claim 1, are not taught or suggested by the prior art of record.

6. **Claims 2-5 and 24** depend from claim 1, and are allowable for at least the same reasons as claim 1.

7. **Claim 9** has been amended to recite the limitations "*an existing file broken up into two or more blocks of memory for use by an application*" and "*a heap tree configured to manage the two or more blocks of memory as nodes in the heap tree*".

These limitations are taught by the specification in paragraphs 0031 and 0032, and argued by applicant in the second paragraph of page 11 of the arguments submitted 2/26/2007. These limitations, in combination with the other recited limitations of claim 9, are not taught or suggested by the prior art of record.

8. **Claims 10-11 and 25** depend from claim 9, and are allowable for at least the same reasons as claim 9.

9. **Claim 16** has been amended to recite the limitations "*breaking up an existing file into two or more memory blocks for use by an application*" and "*managing the two or more memory blocks as nodes in a heap tree*". These limitations are taught by the specification in paragraphs 0031 and 0032, and argued by applicant in the second paragraph of page 11 of the arguments submitted 2/26/2007. These limitations, in combination with the other recited limitations of claim 16, are not taught or suggested by the prior art of record.

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10. **Claims 17-20 and 26** depend from claim 16, and are allowable for at least the same reasons as claim 16.

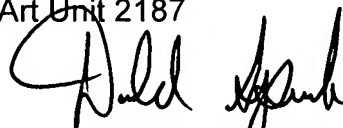
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared I. Rutz whose telephone number is (571) 272-5535. The examiner can normally be reached on M-F 8:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on (571) 272-4201. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 2187

  
**DONALD SPARKS**  
**SUPERVISORY PATENT EXAMINER**

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